

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Todd Wheeler,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:09cv71
)	
Wanzek Construction, Inc.,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On August 25, 2010, this court entered an Order to Show Cause directing plaintiff to secure replacement counsel and file a notice of appearance or advise the court, in writing, of his current address and that he intends to prosecute this action pro se. Plaintiff was advised that failure to comply within 30 days could result in dismissal of this case pursuant to Federal Rule of Civil Procedure 41(b). The Order to Show Cause stemmed from this court's granting attorney Thomas D. Fiebiger's motion to withdraw as counsel for plaintiff, plaintiff's failure to apprise the court of his current mailing address, and his failure to prosecute this action on his own. The Order to Show Cause was returned as Undeliverable, although presumably plaintiff received the Order via e-mail, which does not constitute proper service.

Based on plaintiff Todd Wheeler's continued failure to apprise the court of his current mailing address and his failure to take any steps to prosecute this case, **IT IS RECOMMENDED** that this action be dismissed, with prejudice.

Pursuant to Local Rule 72.1 (D)(3), any party may object to this recommendation within fourteen (14) days after being served with a copy.

Dated this 5th day of November, 2010.

/s/ Karen K. Klein
Karen K. Klein
United States Magistrate Judge